



MONTEREY COUNTY SHERIFF'S OFFICE

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SALINAS-ADMIN

February 29, 2012

The Honorable Timothy P. Roberts
Presiding Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

RE: Sheriff's Office Response to the 2011 Civil Grand Jury Report

Dear Presiding Judge Roberts:

Please accept the attached response to the 2011 Civil Grand Jury Report. The Grand Jury's work in assessing the County Jail and identifying the issues related to excessive overtime is greatly appreciated.

Upon assuming office, I also identified excessive overtime as an issue and have initiated several proposals to address both the financial and health related costs of this issue. In the attached response, I identify some of the most significant responses to date and will continue to explore ways to further address this issue in the future.

I am grateful for the work done by the Grand Jury, and appreciate the opportunity to respond to this important issue. Please feel free to contact me if I can provide any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Scott Miller".

Scott K. Miller
Sheriff-Coroner

JAIL AND DETENTION INSPECTIONS

F-1. Staffing shortages in the Monterey County Jail often require officers to work four hours of overtime after completion of their regularly-scheduled 12-hour daily shifts. The result is only an eight hour interval before their next scheduled shift, thus depriving them of sufficient time for rest and sleep. In addition, some officers work excessive extra days of overtime on their days off. Published studies report that sleep deprivation is a serious concern related to the health and safety of those so deprived.

I agree with the finding.

R-1. The Monterey County Sheriff should review current officer overtime policies and practices at the County Jail with the objective of eliminating or minimizing overtime within a workday or additional work days, to provide the staff with sufficient time-off between shifts for rest and sleep.

The recommendation has been implemented. Since taking office in January of 2011, I have ordered a review of the Sheriff's Office overtime practices in order to reduce expenditures and to improve the physical and mental health of our employees. In regards to this specific recommendation regarding overtime in the County Jail, I have directed the following initiatives to be implemented:

1. The creation of twelve Custody and Control Specialist positions to fill positions formerly occupied by the Deputy Sheriffs. These new positions will provide additional staffing in the jail at regular rates significantly below the Deputy Sheriffs' hourly rate, and allow the Deputies formerly assigned to these tasks to fill open shifts, thereby reducing overtime. Depending on the success of these new positions in reducing overtime while maintaining the safe and efficient operation of the Jail, I may request an additional twelve positions to further reduce the use of overtime and staffing costs in the jail.
2. The implementation of a new timekeeping/scheduling software program that will allow for improved scheduling of shifts and monitoring of employee hours. On February 29, 2012, the Board of Supervisors approved an agreement with Kronos, Inc. to implement a system that will enhance the scheduling of shifts and provide more control and oversight concerning the amount of overtime being worked by individual employees.
3. Considering the implementation of a new policy limiting the number of hours worked in consecutive days. The Sheriff's Office currently has a policy that an employee may only work sixteen hours in any twenty-four hour period, with the exception of emergencies. While I believe this to be an effective policy for a single twenty-four hour period, I also believe it does not adequately address the issue of working this many hours over an extended period of time. Therefore, I am considering the adoption of a new policy that would limit the number of hours worked in a consecutive day period,

following completion of the appropriate consultation with the Deputy Sheriffs' Association (DSA).

4. Analyzing the operations of the entire Sheriff's Office to ensure that services are being provided in the most effective and efficient manner. Realizing that the number of overtime hours worked at the County Jail is most directly a result of the reduced number of employees that we have, I have directed staff to audit, evaluate and assess our operations to determine if cost savings can be realized so that we can at least maintain, if not augment, our current staffing levels. Examples of these savings that have already been realized are:
 - Bidding out the inmate medical services contract for the first time in over two decades which will result in a reduction in annual costs by over \$500,000.
 - Modifying the Forensic Pathologist contract which, based on past experience, is anticipated to reduce expenditures by over \$50,000 annually.
 - Reducing the number of on-call employees by forty percent while still ensuring appropriate staff coverage for off-duty call outs.
 - Reducing the number of employees with take home vehicles by seventy percent.
 - Reducing the number of Command Staff positions and altering the schedules of the Watch Commanders and Detectives to provide nighttime and weekend staffing to increase management oversight and reduce overtime.

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MONTEREY COUNTY

OFFICE OF THE DISTRICT ATTORNEY

DEAN D. FLIPPO
DISTRICT ATTORNEY



February 29, 2012

Honorable Timothy P. Roberts
Superior Court of California, County of Monterey
240 Church Street
Salinas, CA 93901

Re: Responses to the Monterey County Civil Grand Jury 2011 Final Report

Judge Roberts:

Pursuant to Penal Code section 933.05(b) attached please find applicable responses from the District Attorney's Office.

Sincerely,

Dean D. Flippo

DEAN D. FLIPPO
District Attorney,
County of Monterey

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**THE
MONTEREY COUNTY
DISTRICT ATTORNEY'S
OFFICE**



**Response to the Monterey
County Civil Grand Jury
2011 Final Report**

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County District Attorney's Office
RESPONSE TO: Findings F-7

Finding F-7: *Eligibility Workers and medical professionals apparently under-report suspected sexual abuse.*

Response F-7: The District Attorney's Office disagrees with this finding.

There is insufficient statistical analysis to make the blanket claim that eligibility workers are under reporting suspected sexual abuse. Accepting for the sake of argument that zero is an exceedingly low number of reports to have been made from this group it is entirely unclear whether 1) the eligibility worker had information in each of these cases that the client's partner was under the age of 14 and therefore not reportable absent additional indications of abuse or 2) the information obtained or sought during the course of an insurance eligibility interview gave rise to a reasonable suspicion that the sexual partner of the pregnant minor under the age of 14 was a person over the age of 14 or 3) whether information obtained raised a reasonable suspicion of child abuse no matter what the age of the minor. Without a proper basis for believing or suspecting abuse no report need be made.

California Penal Code Section 11166(1) states: "For purposes of this article, 'reasonable suspicion' means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. 'Reasonable suspicion' does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any 'reasonable suspicion' is sufficient. For the purpose of this article the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse."

The District Attorney's Office believes that when an eligibility worker is presented with a case involving a pregnant minor under the age of 14, a reasonable inference can be drawn that her partner is over the age of 14 absent specific information to the contrary, and that it would therefore be appropriate to submit a suspected child abuse report. In such cases, the report would not be supported solely by the fact of the pregnancy, but with the fact of the pregnancy *in combination with the fact that the minor is under the age of 14 years old.*

As the finding relates to the medical profession there is no evidence to support the assertion of under-reporting within this community. The Grand Jury does not define this group or indicate any evidence upon which it relies.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County District Attorney's Office
RESPONSE TO: Recommendation R-8

Recommendation R-8: *All affected agencies should endorse, promote, and emphasize a willingness to enforce violations of mandated reporting laws, actively assisted in those efforts by the county counsel. [Related Findings: F-6 and F-7]*

Response R-8: The recommendation has been implemented.

The District Attorney agrees that mandated reporting laws should be enforced. For many years, the District Attorney provided training to mandated reporters on this subject. Currently, the Child Abuse Prevention Council (CAPC) provides training for mandated reporters throughout Monterey County. The District Attorney is available to assist if requested by the Child Abuse Prevention Council to ensure that mandatory reporters are provided a thorough understanding of their responsibilities and how to apply them.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County District Attorney's Office
RESPONSE TO: Recommendation R-9

Recommendation R-9: *All affected agencies in the county should develop a county-wide protocol for CPS and law enforcement agencies to respond immediately to a minor under 14 applying for pregnancy services when any Eligibility Worker becomes aware that the minor intends to have an induced abortion, so arrangements can be made by law enforcement to collect fetal DNA evidence. [Related Findings: F-6 and F-7]*

Response to R-9: The District Attorney's Office will not pursue this recommended course of action.

Certain legal terminology needs to be understood in the context of this discussion. 'Reasonable suspicion' is a very low standard of evidence/proof and is the standard to be applied in deciding whether to report a situation under California Penal Code Section 11161, the mandatory reporter law. 'Probable cause' is a state of evidence that allows law enforcement officials to proceed with an investigation into criminal conduct and would be the standard employed for the collection of evidence as envisioned in the recommendation from the Grand Jury. 'Proof beyond a reasonable doubt' is the standard required for a criminal conviction and for the District Attorney to file and prosecute a case to its conclusion. The Grand Jury recommendation does not adequately take into account these varying legal standards. In their effort to zealously protect the interests of children in our community, the Grand Jury has proposed a scheme that does not comport with objective law enforcement investigative protocols. As envisioned, the recommendation overly focuses on under 14 year old minors who seek abortion services and have asked for services through the Department of Social and Employment Services (presumably a narrow category of potential victims in this area). A protocol aimed exclusively at this minority population may run afoul of Constitutional criminal procedural due process and seems to be an inappropriate method to address the concerns of the Grand Jury.

In determining whether a reasonable suspicion exists one should not rely on case law interpreting probable cause for a substantive crime. By doing so it could lead to confusion for mandated reporters.

When and if situations arise leading an eligibility worker, medical professional, or other mandatory reporter to initiate a report under California Penal Code Section 11161, normal law enforcement procedures are currently adequate and appropriate to handle those situations - no new protocols appear necessary based on the information contained in the current Grand Jury report.

MONTEREY COUNTY

COUNTY ADMINISTRATIVE OFFICE

LEW C. BAUMAN
COUNTY ADMINISTRATIVE OFFICER

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MAR 22 2012
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March 22, 2012

The Honorable Timothy P. Roberts
2011 Presiding Judge of the Superior Court
Monterey County Superior Court
240 Church St
Salinas CA 93901

Re: Response to 2011 Monterey County Grand Jury Final Report

Dear Judge Roberts:

Attached please find the Monterey County Board of Supervisors response to the 2011 Monterey County Grand Jury Final Report and the signed Board Order. The Board of Supervisors approved the response on March 20, 2012, which complies with the requirements set forth in Sections 933 and 933.05 of the California Penal Code.

The Board approved response should be deemed and accepted by the Presiding Judge of the Superior Court of Monterey County and the Monterey County Civil Grand Jury as the response of the Board of Supervisors, County Administrative Officer, and appointed department heads.

Sincerely,


Lew C. Bauman
County Administrative Officer

LCB:mbz

cc: Charles McKee, Grand Jury Liaison

Attachments: Board of Supervisors Response
March 20, 2012 Board Order

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

- a. Consider approval of the response to the 2011)
Monterey County Grand Jury Final Report; and)
- b. Direct the County Administrative Officer to file)
the approved response with the Presiding Judge)
of the Superior Court, County of Monterey, by)
April 8, 2012.)

Upon motion of Supervisor Salinas, seconded by Supervisor Parker, and carried by those members present, effective March 20, 2012, the Board hereby:

- a. Considered approval of the response to the 2011 Monterey County Grand Jury Final Report with amendments as follows **On page 4 of 12, Response F-3** – Add the following sentences at the end of the paragraph: “Additionally because fresh fruit and vegetables are critical to health, the County promotes fruit and vegetable consumption by supporting policies that make it easier for CalFRESH users to purchase nutritious foods. The County heavily promotes the Fundamentally Fresh program that provides additional funds to CalFRESH users who shop at certain farmers’ markets and has succeeded in ensuring that nearly all farmers’ markets accept EBT for payment.”; **On page 5 of 12, Response F-7** – middle of second paragraph: Modify sentence to read: “This program is an important resource for assuring access to healthcare for the minor(s). and, ~~when they are pregnant, their unborn child.~~”; and **on the bottom of page 7 of 12, Response F-7** – Modify sentence to now read: “The Department of Social and Employment Services recognizes that teen ~~sexuality is deeply problematic~~ sexual activity can be risky and problematic; yet must deal with the reality of its presence in the community.”; and
- b. Directed the County Administrative Officer to file the approved response with the Presiding Judge of the Superior Court, County of Monterey, by April 8, 2012.

PASSED AND ADOPTED on this 20th day of March 2012, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on March 20, 2012.

Dated: March 21, 2012

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy



Monterey County Board of Supervisors

Response to the

**2011 Monterey County Grand Jury
Final Report**

March 20, 2012

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REPORT TITLE: Jail and Detention Inspections
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-2 and F-3

Finding F-2: *The Probation Department case management system currently in use for juveniles and youths reportedly is inadequate to track and measure the success of the various intervention programs and first-time offender programs. An improved system is anticipated before the end of 2011.*

Response F-2: The respondent agrees with the finding.

Finding F-3: *There have been three recent incidents of security breaches at the Youth Center.*

Response F-3: The respondent agrees with the finding.

REPORT TITLE: Jail and Detention Inspections
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Recommendations R-2 and R-3

Recommendation R-2: *The Monterey County Probation Department should evaluate the function and performance of the new case management system and assure its ability to receive input on and retrieve data tracking juveniles participating in intervention and first-time offender diversion programs. [Related Finding: F-2]*

Response R-2: The recommendation has been implemented. The juvenile and institutions components of the new Case Management System (CMS) went live in November 2011. This is a robust, unified system which covers all department operations, and was selected after rigorous research and evaluation. The Department is now engaged in a long-term project to ensure that data is collected, tracked and reported to measure program outcomes.

Recommendation R-3: *Current security policies and procedures may not be adequate and should be re-evaluated. [Related Finding: F-3]*

Response R-3: The recommendation has been implemented. The Department has: a) evaluated and modified the Youth Center's policies and procedures to strengthen internal security; b) taken appropriate personnel actions; and c) made structural improvements to further secure and strengthen the facility.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-1 through F-7

Finding F-1: *There are active efforts to reach out and recruit applicants for the benefits programs, and Eligibility Workers are encouraged to be pro-active in helping applicants qualify for enrollment in these programs. This raises the possibility of some applications being fraudulent.*

Response F-1: The respondent partially disagrees with this finding.

The Department of Social and Employment Services staff actively reach out to the community to support those who are needy and potentially eligible in the application process. Eligibility Workers are directed to support applicants in understanding and following through with eligibility requirements. The MC-CHOICE Outreach Program was initiated in an effort to address under-utilization of benefits in Monterey County.

According to a recent report from The California Food Policy Advocates addressing food insecurity, in 2010 only 1/3rd of Monterey County residents whose income is under eligibility thresholds are enrolled in the CalFresh program (<http://cfpa.net/GeneralNutrition/CFPAPublications/CountyProfiles/2010/CountyProfile-Monterey-2010.pdf>). According to the California Health Interview Survey conducted by UCLA, in 2009 approximately 8.6% of uninsured County residents under age 65 would have been eligible for Medi-Cal had they applied. The MC-CHOICE Outreach Program is a critical tool to address the health and nutrition challenges that result from under-access and under-utilization of available public benefits.

The Grand Jury's finding is contraindicated by the high levels of accuracy achieved by Monterey County Department of Social and Employment Services as measured through the State Quality Control System. As the Grand Jury notes in their narrative, Monterey County Department of Social Services achieves 98% accuracy and is in the top 10% of the counties in achieving accuracy. There is no data to support the Grand Jury's statement that outreach "raises the possibility of some applications being fraudulent."

Finding F-2: *Application processing needs improvement to maintain efficiency ratings and avoid the need for overtime hours.*

Response F-2: The respondent partially disagrees with this finding.

Monterey County Department of Social and Employment Services uses C-IV, a state of the art automated eligibility system. The Department has implemented several improvements in application flow over the past several years and is continuously working to maximize efficiency. Monterey County prioritizes timeliness in eligibility determinations and is successful in achieving this in almost all cases.

However, it is important to note that the State of California's allocations for funding eligibility work in CalFRESH and CalWORKs are based on costs for salaries, benefits, facilities, etc. as they stood in FY 2000-01; in Medi-Cal the funding allocations only incorporate these costs as they stood in FY 2007-08. Like all jurisdictions across the State,

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-1 through F-7

Monterey County's expenditures for these operational costs have gone up even though the State's calculation of available funding has not recognized the increases. As a result, the Department of Social and Employment Services has had to absorb greater workload without adding a commensurate number of Eligibility Workers and has needed to authorize overtime. The Department of Social and Employment Services closely monitors overtime usage and authorization.

The Department welcomes and advocates for state policy and funding reforms to simplify eligibility, improve automated systems and fund current costs of doing business.

Finding F-3: *The orientation for new cardholders at Community Benefits does nothing to promote the intended use for purchasing fresh, nutritious foods.*

Response F-3: The respondent agrees with this finding.

The orientation for new CalFresh recipients is intended to inform recipients of program requirements, their rights and responsibilities. Adding more material to the orientation would reduce the program's efficiency and result in the need for additional overtime. The Department of Social and Employment Services will work with the Health Department to identify additional written material that can be distributed during orientation sessions. Additionally because fresh fruit and vegetables are critical to health, the County promotes fruit and vegetable consumption by supporting policies that make it easier for CalFresh users to purchase nutritious foods. The County heavily promotes the "Fundamentally Fresh" program that provides additional funds to CalFresh users who shop at certain Farmers Markets, and has succeeded in ensuring that nearly all Farmers Markets accept EBT cards for payment.

Finding F-4: *ATMs charge a premium for EBT card usage. Little or no training is provided to recipients to avoid excessive fees and charges.*

Response F-4: The respondent agrees with this finding.

The orientation for new CalFresh recipients is intended to inform recipients of program requirements, their rights and responsibilities. Adding more material to the orientation would reduce the program's efficiency and result in the need for additional overtime; however, the Department of Social and Employment Services will add a reminder to customers that many ATMs charge a fee for cash withdrawals and that direct deposit is an alternative.

Finding F-5: *Some ATMs that accept EBT cards in Monterey County are in locations inconsistent with the intent of the Cal-Works program.*

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-1 through F-7

Response F-5: The respondent agrees with this finding.

Since publication of the Grand Jury's report, the Department worked with the State of California to discontinue the ATM that offered EBT access at the Monterey County Race Place. It is important to note that the authorization of ATMs with EBT access is managed by the State of California not local counties.

Finding F-6: *The Minor Consent Program does not interfere with the responsibility of mandated reporters to report suspected abuse.*

Response F-6: The respondent agrees with this finding.

All Eligibility Workers are given training on mandated reporting responsibilities and laws.

Finding F-7: *Eligibility Workers and medical professionals apparently under-report suspected sexual abuse.*

Response F-7: The respondent disagrees wholly with this finding.

The Grand Jury reaches a conclusion in this finding that is contrary to law and internally inconsistent with the material referenced in its analysis. The Grand Jury accurately cites California Minor Consent and Confidentiality laws in their appendices B and C. However an understanding of these laws is not reflected in the discussion on mandated reporting, in the findings and in the recommendations.

Medi-Cal Minor Consent is a program provided for through California's Medi-Cal program and the County is required under law to administer eligibility for this valuable resource. The program provides an option for youth facing difficult life circumstances who in the absence of this program would otherwise be at risk for not seeking treatment. This program is an important resource for assuring access to health care for minors. It also provides youth with access to a trained health professional with whom they can confidentially address issues of abuse and assault when necessary. In 2010, the Health Department reported 285 births to teen parents under 18 years old – 4.3% of all births. Only half the mothers under 18 accessed prenatal care timely, the rest accessed it either late (after the first trimester) or not at all. The Medi-Cal Minor Consent Program is a key resource helping young mothers access prenatal care and care from a clinician who is responsible for assessing whether a mandated report is required.

The Grand Jury states that "all sexual activity with a minor under 14 is abuse." The Grand Jury cites a chart developed by the National Center for Youth Law which is distributed by the Child Abuse Prevention Council as part of their mandated reporter training. The chart is inserted on the following page.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-1 through F-7

2. BASED ON AGE DIFFERENCE BETWEEN PARTNER AND PATIENT IN A FEW SITUATIONS

Mandated reporters also must report based on the age difference between the patient and his or her partner in a few circumstances, according to the following chart:

KEY: M = Mandated. A report is mandated based solely on age difference between partner and patient.

CJ = Clinical Judgment. A report is not mandated based solely on age; however, a reporter must use clinical judgment and must report if he or she has a reasonable suspicion that act was coerced, as described above.

Age of Partner →	12	13	14	15	16	17	18	19	20	21	22 and older
Age of Patient ↓											
11	CJ	CJ	M	M	M	M	M	M	M	M	M
12	CJ	CJ	M	M	M	M	M	M	M	M	M
13	CJ	CJ	M	M	M	M	M	M	M	M	M
14	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	M	M
15	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	M	M
16	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ
17	M	M	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ	CJ
18	M	M	CJ	CJ	CJ	CJ	Chart design by David Knopf, LCSW, UCSE. (The legal sources for this chart are as follows: Penal Code §§ 11165.1; 261.5; 261; 259 Cal. Rptr. 762, 769 (3 rd Dist. Ct. App. 1989); 226 Cal. Rptr. 361, 381 (1 st Dist. Ct. App. 1986); 73 Cal. Rptr. 2d 331, 333 (1 st Dist. Ct. App. 1998).				
19	M	M	CJ	CJ	CJ	CJ					
20	M	M	CJ	CJ	CJ	CJ					
21 and older	M	M	M	M	CJ	CJ					

This chart is based on the California Penal Code and numerous court decisions. According to this chart and to mandated reporter training, there is an element of consideration regarding the age of the partner, even when the minor is under 14 years old. The accuracy of this chart is reiterated in the California Attorney General's publication "Child Abuse Prevention Handbook...and Intervention Guide" published in 2007. On the first page of the section on "What is Not Child Abuse," the Attorney General's Office states:

- **Voluntary sexual activity between children under the age of 14.** Voluntary sexual conduct between children who are both under the age of 14 years and who are of similar age and sophistication is not a crime and need not be reported under the Child Abuse and Neglect Reporting Act. (People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal.App.3d 225; Planned Parenthood Affiliates v. Van de Kamp (1986) 181 Cal.App.3d 245.)
- **Pregnancy.** Pregnancy of a minor, does not, in and of itself, constitute the basis of a reasonable suspicion of sexual abuse. (Pen. Code, § 11166, subd. (1).) Pregnancy may be cause for a report if the pregnancy was conceived by a female under age 16 and a male over 21. Similar consideration should be made for other evidence of sexual activity including sexually transmitted diseases including Gonorrhea, Chlamydia, Genital Herpes, genital warts and HIV.

This document references the mandated reporting law under Penal Code Section 11166 (a) (1) which reads:

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. (*Emphasis added*)

It also references the California Appellate Court decision in *Eichenberger v. Stockton Pregnancy Control Clinic* which states in the deciding opinion:

The injunction issued by the trial court requires a report wherever a minor under age 14 is diagnosed as being pregnant, as having a sexually transmitted disease, or as suffering from complications of abortion. The injunction is apparently premised on the inference that a minor who is pregnant, or who has some other sexually caused medical condition has been the victim of a sexual assault. However, under the current version of the Act, the inference is expressly precluded to the extent it is based solely on pregnancy. (*β 11166, subd. (a).*) Moreover the inference is not logically [***23] warranted to the extent a medical condition has been caused by voluntary sexual conduct between minors under age 14, both of whom are of a similar age.

The Court's opinion continues and states:

(10) The Act makes clear that professionals subject to the Act must evaluate facts known to them in light of their training and experience to determine whether they have an objectively reasonable suspicion of child abuse. (*β 11166, subd. (a); Planned Parenthood, supra, 181 Cal.App.3d at p. 259.*)⁶ However, nothing [*240] in the Act requires professionals such as health practitioners to obtain information they would not ordinarily obtain in the course of providing care or treatment. Thus, the duty to report must be premised on information obtained by the health practitioner in the ordinary course of providing care and treatment according to standards prevailing in the medical profession.⁷ Whether this information creates a reasonable suspicion of reportable child abuse will depend in many instances on application of the health practitioner's training and experience, as [***24] the Act expressly directs.

The Department of Social and Employment Services recognizes that teen sexual activity can be risky and problematic, yet must deal with the reality of its presence in the community. The Department is committed to obeying the laws regarding child abuse and neglect reporting and embracing the value of the Medi-Cal Minor Consent Program as an important

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Findings F-1 through F-7

resource for youth in assuring they have access to necessary health care and resources that may be necessary for preventing child abuse and addressing sexual assault. In embracing the Medi-Cal Minor Consent Program, it is important to note that disclosure of the facts necessary to ascertain a reasonable suspicion of abuse is not an element of the eligibility determination procedure. To require that additional information would be contrary to the design and intent of the program – which is to assist the minor in confidentially reaching a health professional. It is also important to note that all health care providers are trained and able to make a determination whether there is reasonable suspicion of child abuse.

Eligibility Workers are aware and trained of their responsibilities as mandated reporters. If a minor were to disclose sufficient information for the Eligibility Worker to reach the reasonable suspicion that a child applicant for Minor Consent Medi-Cal was a victim of child abuse (see mandated reporting chart and discussion above) the workers are trained and expected to make a report.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Recommendations R-1 through R-9

Recommendation R-1: *Community Benefits should instruct its employees not to give any information or advice to an applicant that is intended to assist the applicant in misrepresenting their assets or living conditions to meet qualification requirements. [Related Finding: F-1]*

Response R-1: The recommendation has been implemented.

All Eligibility Workers are given extensive training before they are assigned to casework. They are also closely supervised in their work determining eligibility with randomly selected full and focused casework reviews to assure accuracy and quality. The Grand Jury notes in their discussion that this training is extensive and that those who are not successful are released.

The training includes in-depth study of the requirements for eligibility and the obvious direction to not encourage or assist applicants in misrepresenting their assets or living conditions to meet qualification requirements. Eligibility workers are also trained in making referrals to the District Attorney's Welfare Fraud Special Investigation Unit when they have suspicion that a customer may be misrepresenting the facts related to their eligibility. To support this effort the Department also relies on numerous automated matches with the Franchise Tax Board, the Employment Development Department and the Social Security Administration to validate the facts as presented. In Calendar Year 2011, there were 1,059 referrals to the District Attorney's Welfare Fraud Special Investigations Unit made by DSES Eligibility Workers.

Recommendation R-2: *Community Benefits should implement an improved system of processing applications. [Related Finding: F-2]*

Response R-2: The recommendation has been implemented.

In recent years, the following enhancements in application services have been implemented:

- a) Implementation of the MC-CHOICE Outreach Program
- b) Implementation of C4Yourself on-line applications
- c) Centralization of assessment and screening of electronic and mail-in applications
- d) Addition of Social Services Aides for application screening services to reduce wait times for application services and to allow for the reassignment of Eligibility Workers to application processing services.
- e) Redesign of the Salinas Waiting Room
- f) Implementation of an appointment numbering system
- g) Implementation of telephone interviews for CalFresh and Medi-Cal applicants
- h) Implementation of the interactive voice response system for outbound calls to remind customers of appointments and pending items to complete the eligibility process
- i) Elimination of the Statewide Finger Imaging System in CalFresh per AB6

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Recommendations R-1 through R-9

It should be noted the Department of Social and Employment Services is also looking for resources to redesign its Salinas District Office Community Benefits lobby to further improve the intake process and customer flow.

Recommendation R-3: *Community Benefits should initiate an education program required for all benefit recipients during an in-depth orientation, utilizing resources from Family and Children Services and the Health Department, to teach recipients how to make healthy food choices and shop wisely to stretch dollars. [Related Finding: F-3]*

Response R-3: The recommendation has not yet been implemented.

The Department of Social and Employment Services will consult with the Health Department on the availability of brochures on healthy foods choices and farmers markets that accept EBT. Recognizing the importance of nutrition education, the Department will distribute available materials during orientations beginning in April 2012. More extensive education as recommended cannot reasonably be pursued given the strains of workload and financial pressures currently being experienced by the Department of Social and Employment Services. The focus of Family and Children's Services resources is toward the prevention and investigation of child maltreatment; nutrition education is beyond the scope of the Family and Children's Services branch.

Recommendation R-4: *In the Community Benefits' orientations, include instruction on how to avoid high ATM fees, including use of direct deposit into personal bank accounts as an option. [Related Finding: F-4]*

Response R-4: The recommendation has not yet been implemented.

Orientation material on the use of direct deposit as an alternative to having CalWORKs added to EBT will be distributed at orientation sessions beginning in April 2012. Customers will also be reminded to be aware of ATM surcharges for withdrawal of cash benefits.

Recommendation R-5: *Community Benefits should be pro-active in working with the California Department of Social Services Program Integrity Branch to identify ATMs in locations inconsistent with the intent of the CalWORKs program or the Appendix A letters. [Related Finding: F-5]*

Response R-5: The recommendation will not be implemented because it is not reasonable.

Given the extensive workload and financial pressures on the County's Department of Social and Employment Services, resources are not available to provide this level of additional support to the California Department of Social Services.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Recommendations R-1 through R-9

With regard to the ATM at the Monterey County Fairgrounds' Monterey County Race Place. This ATM location was brought to the attention of the California Department of Social Services in January 2012 and the Department was informed the EBT access would be deactivated.

Recommendation R-6: *All administrators and staff in Community Benefits should be re-educated through CAPC in a comprehensive program designed to remove all doubt of the laws and responsibilities of mandated reporting. [Related Findings: F-6 and F-7]*

Response R-6: The recommendation will not be implemented because it is not warranted.

All Department of Social and Employment Services employees, including those in Community Benefits are provided with training by the Child Abuse Prevention Council on mandated reporting. The Department's response to Finding 7 reflects current law as applied to mandating reporting. As indicated above, the doubts in the law raised by the Grand Jury's findings are contraindicated by the penal code, case law, the State's Office of Child Abuse Prevention, the California Attorney General's Office and the Child Abuse Prevention Council training material.

It is important to note that when child abuse referrals are received, including those for sexual abuse of minors, the Department of Social and Employment Services' Family and Children's Services Branch investigates the referral as it relates to the capacity of families to protect their children and cross-refers to law enforcement to investigate and pursue criminal activity.

Recommendation R-7: *Community Benefits should develop a system of measuring the effectiveness of the training and consider developing a tracking system to make sure reports are generated appropriately. [Related Findings: F-6 and F-7]*

Response R-7: The recommendation will not be implemented because it is not warranted.

As stated above, a new training program is not necessary. Implementing such a training program would be redundant and would result in greater need for overtime. However, it is worth noting that the Family and Children's Services will redirect scarce time and resources to adding a new manual tracking system to their Child Abuse Referral system to separately identify referrals from Community Benefits staff in order to prevent future misunderstanding of staff pursuit of mandated reporting. This new effort will begin in April 2012.

Recommendation R-8: *All affected agencies should endorse, promote, and emphasize a willingness to enforce violations of mandated reporting laws, actively assisted in those efforts by the county counsel. [Related Findings: F-6 and F-7]*

Response R-8: The recommendation has been implemented.

REPORT TITLE: Monterey County Welfare
RESPONSE BY: Monterey County Board of Supervisors
RESPONSE TO: Recommendations R-1 through R-9

The Department of Social and Employment strongly concurs that mandated reporting laws should be enforced. Mandated reporters and mandated reporting laws are essential for protecting children. At the statewide advocacy level the Department of Social and Employment Services have consistently advocated for strong mandated reporting laws necessary to promote the safety and well-being of children.

Recommendation R-9: *All affected agencies in the county should develop a county-wide protocol for CPS and law enforcement agencies to respond immediately to a minor under 14 applying for pregnancy services when any Eligibility Worker becomes aware that the minor intends to have an induced abortion, so arrangements can be made by law enforcement to collect fetal DNA evidence. [Related Findings: F-6 and F-7]*

Response to R-9: The recommendation will not be implemented because it is not reasonable.

This recommendation cannot be implemented. The Penal Code and case law provide that pregnancy in and of itself is not sufficient to establish reasonable suspicion of sexual abuse. This is concretely stated in section 11166 (a)(1) of the Penal Code. It should be noted that if a minor, of any age and in any of the Department of Social and Employment Services programs, discloses information that establishes cause for a mandated child abuse report, one is made.

The Department of Social and Employment Services defers to the District Attorney, other law enforcement agencies and the Superior Court in advising the process and requirements for obtaining a warrant for the collection of fetal DNA evidence. Efforts by law enforcement to identify and pursue evidence in the prosecution of sexual abuse and the protection of children are whole-heartedly embraced by the Department of Social and Employment Services as part of our ongoing partnership.

Gloria Santiago

Subject: 2012 CGJ Report Responses
Start Date: Monday, January 06, 2014
Due Date: Friday, January 31, 2014
Priority: Low

Status: Not Started
Percent Complete: 0%

Total Work: 0 hours
Actual Work: 0 hours

Owner: Gloria Santiago
Requested By: Nona Medina

[\\FPSPRD02ITSLM1\Administration\ADMIN](#) ONLY\CIVIL GRAND JURY\Archives\2012 Civil Grand Jury\2012 Report Responses

1. Please print one copy of each response;
2. then compile in descending order;
3. Once compiled from latest to earliest, please scan in as one packet and name that packet 2012 CGJ Responses;
4. Then, email that scanned packet to Eric Chavez, followed with an IT ticket, both instructing him to post on the CGJ Reports web page under the year of 2012.

[\\FPSPRD02ITSLM1\Administration\ADMIN](#) ONLY\CIVIL GRAND JURY\Archives\2012 Civil Grand Jury\2011 CGJ Report_Final Responses

1. Please print one copy of each response;
2. then compile in descending order;
3. Once compiled from latest to earliest, please scan in as one packet and name that packet 2012 CGJ Responses;
4. Then, email that scanned packet to Eric Chavez, followed with an IT ticket, both instructing him to post on the CGJ Reports web page under the year of 2011.

Not a priority task, but please complete by the end of January 2014.

Thank you,
Nona